

## Calendar No. 472

107TH CONGRESS }  
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SENATE

{ REPORT  
107-195

### HYDROELECTRIC LICENSE IN WYOMING

JUNE 28, 2002.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany S. 1852]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1852) to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE MEASURE

The purpose of S. 1852 is to authorize the Federal Energy Regulatory Commission, at the request of the licensee, to extend for three consecutive two year periods the deadline for the licensee to commence construction of hydroelectric project No. 1651.

#### BACKGROUND AND NEED

Section 13 of the Federal Power Act requires that construction of a licensed hydroelectric project be commenced within 2 years of issuance of the license. The Federal Energy Regulatory Commission is authorized to extend this deadline once, for a maximum of two additional years. If construction has not commenced by the end of the time period the license is terminated by the Commission unless legislation authorizing an additional extension is enacted. This legislation authorizes the Commission to extend the construction deadline for Project No. 1651.

On December 19, 1997, the Federal Energy Regulatory Commission issued a license to the Swift Creek Power Company to rehabilitate, operate, and maintain the 1.5 megawatt Swift Creek Project No. 1651, located in Lincoln County, Wyoming. The original deadline for commencing construction of the project was December

18, 1999. The Commission subsequently extended that deadline to December 18, 2001.

Project No. 1651 includes rehabilitation of the upper development of the project by modifying the upper dam to add one-foot stoplogs, replacing a 36-inch diameter penstock with one 48 inches in diameter, dredging around the intake structures, refurbishing the powerhouse, and installing two generators. The rehabilitation of the project's lower development includes dredging behind the lower dam, installing a 2,000 foot long buried penstock, building a powerhouse, installing two generating units, and burying a short new transmission line.

#### LEGISLATIVE HISTORY

S. 1852 was introduced by Senator Thomas on December 19, 2001. The views of the Federal Energy Regulatory Commission were sought on January 30, 2002 and March 1, 2002, and provided by the Chairman of the Commission on March 19, 2002.

#### COMMITTEE RECOMMENDATIONS

The Committee on Energy and Natural Resources, in open business session on June 5, 2002, by a voice vote of a quorum present, recommends that the Senate pass S. 1852 as described herein.

#### SECTION-BY-SECTION ANALYSIS

Section 1 authorizes the Federal Energy Regulatory Commission, at the request of the licensee, to extend the deadline for commencing construction of hydroelectric project No. 1651. The time period may be extended for three consecutive two year periods. The extension is to take effect on the date of the expiration of the extension originally issued by the Commission under section 13 of the Federal Power Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 14, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1852, a bill to extend the deadline for commencement of construction of hydroelectric project in the state of Wyoming.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lisa Cash Driskill.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*S. 1852—A bill to extend the deadline for commencement of construction of a hydroelectric project in the state of Wyoming*

CBO estimates that implementing S. 1852 would have no net effect on the federal budget. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

S. 1852 would authorize the Federal Energy Regulatory Commission (FERC) to extend, by six years, the deadline for beginning construction of a hydroelectric project currently subject to licensing by that agency. The proposed extension is for project number 1651 in Lincoln County, Wyoming. This provision may have a minor impact on FERC's workload. Because FERC recovers 100 percent of its costs through user fees, any change in its administrative costs would be offset by an equal change in the fees that the commission charges. Hence, the bill's provisions would have no net budgetary impact.

Because FERC's administrative costs are set in annual appropriations, enactment of this legislation would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to S. 1852.

The CBO staff contact for this estimate is Lisa Cash Driskill. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1852.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1852.

#### EXECUTIVE COMMUNICATIONS

On January 30, 2002 and March 1, 2002, the Committee on Energy and Natural Resources requested legislative reports from the Federal Energy Regulatory Commission and the Office of Management and Budget setting forth Executive agency recommendations on S. 1852. The report was received on March 19, 2002. The pertinent communications received by the Committee from the Chairman of the Federal Energy Regulatory Commission setting forth his views relating to this measure are set forth below:

FEDERAL ENERGY REGULATORY COMMISSION,  
*Washington, DC, March 19, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of January 30, 2002, requesting comments on S. 1852, a bill to extend the construction deadlines applicable to a hydroelectric project in Wyoming licensed by the Federal Energy Regulatory Commission (FERC No. 1651). A report on the project is attached to this letter.

Section 13 of the Federal Power Act requires that construction of a licensed project be commenced within two years of issuance of the license. Section 13 authorizes the Commission to extend this deadline once, for a maximum additional two years. If project construction has not commenced by this deadline, the Commission is required to terminate the license. Section 13 also authorizes the Commission to extend the deadline for completion of construction when not incompatible with the public interest.

As a general matter, enactment of bills authorizing or requiring commencement-of-construction extensions for individual projects delays utilization in the public interest of an important energy resource and therefore is not recommended. In cases where project-specific extensions are authorized by the Congress, it has been the position of prior Commission chairmen that such extensions not go beyond ten years from the date the project was licensed. If a licensee cannot meet a ten-year deadline, then as a general matter the license should be terminated, making the site once again available for such uses as current circumstances may warrant, based on up-to-date information on economic and environmental considerations. I have no reason to depart from this extension policy.

S. 1852 would permit the licensee for Project No. 1651 to extend the deadline for commencement of construction for three consecutive 2-year periods. Accordingly, construction could commence no later than ten years from the date the license was issued.

Thank you for the opportunity to comment on S. 1852. If I can be of further assistance in this or any other Commission matter, please let me know.

Best regards,

PAT WOOD III,  
*Chairman.*

Enclosure.

ATTACHMENT TO CHAIRMAN WOOD'S RESPONSE TO CHAIRMAN  
 BINGAMAN'S LETTER OF JANUARY 30, 2002 REGARDING S. 1852

S. 1852 would authorize the Commission, upon the request of the licensee, in accordance with the requirements of Section 13 of the Federal Power Act, and after reasonable notice, to extend the deadline for commencement of construction.

PROJECT NO. 1651

On December 19, 1997, the commission issued a license to Swift Creek Power Company to rehabilitate, operate, and maintain the 1.5-megawatt Swift Creek Project No. 1651, in Lincoln County, Wyoming. The original deadline for the commencement of project con-

struction, December 18, 1999, was extended by the Commission to December 18, 2001. The Commission staff knows of no other interest in the site.

Rehabilitation of the upper development of Project No. 1651 entails modifying the upper dam to add one-foot stoplogs, replacing a 36-inch-diameter penstock with one 48 inches in diameter, dredging around the intake structures, refurbishing the powerhouse, and installing two generators. Rehabilitation of the project's upper development entails dredging behind the lower dam, installing a 2,000-foot-long buried penstock, building a powerhouse, installing two generating units, and burying a short new transmission line.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1852, as ordered reported.

